

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED
AUG 24 2017
Clerk, U.S. District Court
District Of Montana
Billings

JOSH WYNIA,

Plaintiff,

vs.

SPF ENERGY, INC. and FARSTAD
OIL, INC.,

Defendants.

CV 16-173-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

Before the Court are United States Magistrate Judge Timothy Cavan's Findings and Recommendations filed on July 31, 2017. (Doc. 23). Judge Cavan recommends that this Court deny Defendants SPF Energy, Inc.'s and Farstad Oil, Inc.'s Motion to Dismiss (Doc. 2). Judge Cavan also recommends that Wynia's Amended Complaint (Doc. 8) be stricken.

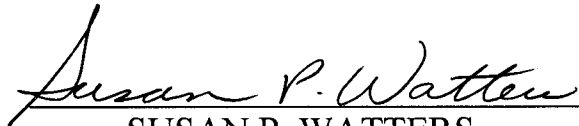
Pursuant to 28 U.S.C. § 636(b)(1), the parties were required to file written objections within 14 days of the filing of Judge Cavan's Findings and Recommendations. No objections were filed. When neither party objects, this Court reviews Judge Cavan's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d

422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendations, this Court does not find that Judge Cavan committed clear error.

IT IS ORDERED that the proposed Findings and Recommendations entered by United States Magistrate Judge Cavan (Doc. 23) are **ADOPTED IN FULL**.

IT IS FURTHER ORDERED that Plaintiff Wynia's Amended Complaint (Doc. 8) is **STRICKEN**; and Defendants' Motion to Dismiss (Doc. 2) is **DENIED**.

DATED this 22nd day of August, 2017.



SUSAN P. WATTERS
United States District Judge